

the FCC, advocates, and parents about minimal standards for children's educational programming and how such standards should be defined.⁶²

Thirty years of debate about commercial broadcasters' obligation to air children's educational programming demonstrate one certainty. Without stringent requirements mandated by the FCC, broadcasters do not voluntarily serve the needs of children. Self-regulation is not an option to ensure the protection of children's public interest. As the FCC considers policy recommendations for the application of the Children's Television Act in the digital arena, Children Now urges the mandating of specific guidelines. The history of the Children's Television Act demonstrates that, for the most part, unless faced with external pressure, the commercial broadcast industry has largely neglected children's educational programming.⁶³

During the 1970s, the FCC did not mandate specific policy on children's educational television requirements. In 1971, the FCC did initiate a rulemaking on children's television, which yielded voluntary changes in the National Association of Broadcasters' code two years later.⁶⁴ The NAB agreed to: 1) make clear distinctions between children's programs and commercials; 2) prohibit the practice of host-selling; 3) ban ads for drugs and vitamins during children's shows; and 4) proposed self-regulated limits for commercials of 9 minutes per hour on weekdays and 12 minutes per hour on weekends.⁶⁵ These limits, according to the FCC, "struck a balance between the needs of children, who were judged uniquely susceptible to commercial influence, and the needs

⁶² Mark R. Barner, *Sex-Role Stereotyping in FCC-Mandated Children's Educational Television*, 43 *Journal of Broadcasting and Electronic Media* 551 (1999).

⁶³ Dale Kunkel, *Policy and the Future of Children's Television in Children & Television: Images In A Changing Sociocultural World* 273, 276 (Gordon L. Berry et al eds., 1993) [hereinafter Kunkel and Children & Television].

⁶⁴ Advisory Committee Report at §II, *The Public Interest in Children's Educational Programming*.

⁶⁵ *Id.*

of broadcasters, who were dependent upon advertising revenue to maintain the children's program offerings."⁶⁶ Thus, instead of mandating rules, the FCC issued a *1974 Policy Statement* noting that "broadcasters have a special obligation to serve children"⁶⁷ and asked stations to provide a "reasonable amount"⁶⁸ of educational programming.

By the late 1970s, the FCC determined that broadcasters' self-regulation was not working, and, in its 1979 *Children's Television Report*, offered more prescriptive rules.⁶⁹ These rules, however, were never implemented as new commissioners came to Washington in the 1980s. In 1984, led by Commissioner Mark Fowler, the FCC determined that the marketplace alone could adequately respond to children's needs.⁷⁰ Commercial broadcasters no longer had to air educational programming as long as children's needs could be served by other services such as public television, cable, satellite, and videos.

This new policy resulted in a notable decline in children's educational programming, and several studies documented this dramatic decrease.⁷¹ One study, for example, showed that commercial broadcasters did not provide a single children's educational show during a sample week in the greater Los Angeles area.⁷² According to Professor Dale Kunkel at the University of California at Santa Barbara, "Even the relatively small amount of educational programs that had been provided previously on

⁶⁶ Dale Kunkel and Don Roberts, et al. in Mary C. Martin, *Children's Understanding of the Intent of Advertising: A Meta-Analysis*, 16, JOURNAL OF PUBLIC POLICY & MARKETING 205 (1997).

⁶⁷ Benton Foundation, *The Public Interest Standard in Television Broadcasting*, (last modified Jan. 19, 1999) < <http://www.benton.org/PIAC/sec2> >.

⁶⁸ Kunkel and Children & Television, *supra*, at 276.

⁶⁹ Advisory Committee Report at §II, *The Public Interest in Children's Educational Programming*.

⁷⁰ *Id.*

⁷¹ Kunkel and Children & Television, *supra*, at 277.

⁷² *Id.*

commercial television essentially disappeared once the FCC deregulated kids' television."⁷³

During the 1980s, the FCC also ruled that the market place should determine how much commercial content could be included in children's programming. The FCC therefore dropped the limits on the amount of advertising in children's television and relinquished the previously-established ban on "program-length commercials," 30-minute, toy-based programs. Subsequently, advertising on children's programming increased considerably; a study found that children's advertising on the networks in 1990 averaged 10:05 minutes per hour compared to eight minutes in 1983.⁷⁴ Similarly, there was a tremendous increase in "program-length commercials;" for example, profits from the sale of licensed products based on the program, *Teenage Mutant Ninja Turtles*, yielded \$1.1 billion by 1991.⁷⁵

B. The Children's Television Act of 1990

Throughout the 1980s, it became increasingly evident that the FCC could not rely on broadcasters' self-regulation to meet the educational needs of children. Thus, in 1990, Congress passed the Children's Television Act (CTA) which marked a new era for television broadcasters. Under the CTA, "as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children."⁷⁶ The Children's Television Act also limited advertising during children's programs to 12 minutes per hour on weekdays, 10.5 minutes

⁷³ *Id.*

⁷⁴ Dale Kunkel & Walter Gantz, *Children's Television Advertising in the Multichannel Environment*, 42 J. Comm. 134, 143-144, 147 (1992).

⁷⁵ Kunkel and Children & Television, *supra*, at 278.

⁷⁶ Children's Television Act of 1990, Pub. L. No. 101-437, 104 Stat. 996-1000 codified at 47 U.S.C. §101. [hereinafter Children's Television Act of 1990].

per hour on weekends. Finally, the Act mandated that the FCC revisit and re-examine its policy on children's program-length commercials.⁷⁷

In subsequent years, the broad coalition of groups that helped ensure the passage of the CTA – including Action for Children's Television, the National PTA, the National Education Association, and the American Academy of Pediatrics – was often disappointed with how the Act was being implemented. Because there were no specific mandates about quantity of programming, broadcasters aired as little as 30 minutes of educational programs a week. In addition, many programs that stations deemed "FCC-friendly" were "scheduled in pre-dawn time slots when few people were likely to be watching"⁷⁸ or were often preempted by Saturday sports programming. Finally, without qualitative guidelines on what constitutes "educational and informational programming," many networks documented shows such as *The Jetsons* and *Leave It to Beaver* as educational.

Yet when it came to the quantifiable commercial time limits for children's programming, broadcasters made considerable strides in complying with the Act. According to a November 1993 FCC study, 98 percent of stations showed compliance with the commercial limits, up from 95 percent in 1992.⁷⁹ Thus, it appears that setting specific quantifiable requirements under the Children's Television Act is helpful, and arguably essential, in garnering broadcasters' compliance.

⁷⁷ Children's Television Act of 1990, *supra*, §303a ("Except as provided in subsection (c) of this section, the standards prescribed under subsection (a) of this section shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minute per hour on weekdays.").

⁷⁸ Center for Media Education, *A Field Guide to the Children's Television Act*, (visited Feb 29, 00) <<http://www.cme.org/ctatool/fguide.html>>.

⁷⁹ Christopher Stern, *98% of Stations Under Limit On Kids Ads; FCC Survey on Commercial Time Limit Compliance*, 124 *Broadcasting and Cable* 65 (March 28, 1994).

C. The Children's Television Act—More Stringent Rules

In 1996, the Federal Communications Commission revised the CTA to address the concerns of advocates and parents, by providing more stringent and specific quantifiable rules for children's educational programming. The FCC guidelines require that core programming be designed to educate and inform children ages 16 and under.⁸⁰ Under the FCC's new guidelines, broadcasters are required to: 1) broadcast a minimum of three hours per week of educational and informational television for children; 2) specify in writing the educational and informational objective of a program, as well as its target child audience; 3) air programs between the hours of 7:00am and 10:00pm; 4) ensure that broadcasts are regularly scheduled to assist parents in selecting educational programs for their children; 5) broadcast programs that are at least 30 minutes in length; and 6) identify "E/I" programs (for educational and informational) at the beginning of each program.⁸¹

D. The Three-Hour Rule: Is It Living Up To Its Expectations?

In September 1997, the Three-Hour Rule went into effect, and several improvements to children's programming have been documented. The Annenberg Public Policy Center at the University of Pennsylvania issues an annual report on broadcasters' compliance with the Children's Television Act. The most recent study, *The Three-Hour Rule: Is it Living Up to Expectations?* examined the quantity and quality of broadcasters' second year efforts (1998-99 TV season) at compliance, and found that commercial

⁸⁰ Policies and Rules Concerning Children's Television Programming, Revision, Revision of Programming Policies for Television Broadcast Stations, MM Docket No. 93-48, *Report and Order*, 11 FCC Rcd 10660 (1996) at §IV.84 [hereinafter Policies and Rules Concerning Children's Television Programming, 1996]. ("Accordingly, as proposed in the NPRM, we will require that core programming be specifically designed to meet the educational and informational needs of children ages 16 and under and have educating and informing children as its significant purpose.")

⁸¹ Policies and Rules Concerning Children's Television Programming, 1996, *supra*, at §I(3-5).

broadcasters *are* airing the required three hours of educational programming.⁸² The report found that the Three-Hour Rule has effectively increased the number of programs available to children during hours when they are likely to watch. In addition, 60% of stations offer more than the three-hour minimum of core educational programming. Whereas before the Three-Hour Rule's implementation many of the E/I (educational/informational) programs were aired in pre-dawn hours, the 1998/99 TV season's programs can be found between the hours of 7:00am and 10:00pm.

The report also found that approximately 80% of the E/I programs evaluated in a nationally representative media market are meeting the letter and sometimes the spirit of the law. One third of these programs are even highly educational. The "highly educational" programs come from a variety of sources, including: programs that originally aired on PBS (such as *Magic School Bus*, *Bill Nye*, *The Science Guy* and *New Zoo Revue*); those developed as a result of the Three-Hour Rule (such as *Pepper Ann*, *Popular Mechanics for Kids* and *Brain Stew*); locally-produced programs (such as *UP 'N Running* and *HyperTek*); Spanish language programs (*Pistas de Blue* and *Plaza Sesamo*); religious programs (*Al Denson's Studio 828* and *Quigley's Village*) and those airing in syndication (*Real Life 101* and *Nick News*). These programs tackle a variety of lessons and audiences and are particularly effective at making these lessons relevant to the lives of children.

While they note these and other improvements, the Annenberg reports also show that there is still a need to monitor the progress of the CTA. For instance, over one-fifth of the programs labeled educational and informational in their sample had "little or no

⁸² Kelly L. Schmidt, The Annenberg Public Policy Center of the University of Pennsylvania, *The Three-Hour Rule: Is It Living Up To Expectations?* (1999).

educational value and failed to meet the guidelines set forth by the FCC.”⁸³ While these shows do not deserve the E/I label, they continue to air on commercial broadcast stations (programs such as *NBA Inside Stuff* and *Peer Pressure* have aired in two consecutive TV seasons without any noticeable improvement).

There also still appears to be some confusion at the station level about what constitutes E/I programming. There were several questionable programs identified on the FCC 398 reports that were not validated by the syndicator or network contact; however there is less variation in the way that broadcasters are complying with the children’s television act under the Three-Hour Rule.

The report found that while broadcasters are complying with the Three-Hour Rule, and making an effort to meet the educational needs of children, their efforts warrant improvement. There are still too many programs airing that are not educational and too few highly educational programs available.

E. The Three-Hour Rule: Insiders’ Reactions

In order to evaluate fully the Three-Hour Rule, the Annenberg Public Policy Center also conducted a poll of television industry executives, academics, and advocates.⁸⁴ Most noted an improvement in children’s educational programming, citing more diversity in type of programming, and an increased quantity and quality of shows. Respondents noted that violent and offensive shows disappeared, and the number of programs devoid of educational content decreased by 50 percent. They also reported that

⁸³ Schmidt, *supra*, at 3.

⁸⁴ See Amy B. Jordan, The Annenberg Public Policy Center of the University of Pennsylvania, *The Three-Hour Rule: Insiders’ Reactions* (1999).

the rule resulted in an increased dialogue between “the broadcast industry and the scholarly and academic communities.”⁸⁵

Despite the improvements, more than half of the respondents felt that the educational objectives of the rule were not being fully realized. They found that while children’s programming was less objectionable after implementation of the rule, it nevertheless could not be deemed truly educational, noting that a majority of the programming address social and emotional concerns rather than teaching academic concepts. To address this concern, respondents recommended that broadcasters:

- 1) diversify all aspects of the programs;
- 2) increase promotion and media coverage of children’s programming;
- 3) establish funding sources for new educational programs;
- 4) provide more research to create efficient educational programs that appeal to children;
- 5) create a national public information campaign about educational programming.

F. Local Observations Relevant to the Children’s Television Act

Over the last several months, the broad coalition of organizations known as People for a Better TV (PBTv) have assessed compliance of their local television stations with the guidelines of the CTA by recording children’s programs and examining the public files at their local stations. Comments and observations about local stations’ commitment to children’s programming centered mostly on station compliance with the three-hour requirement and critiques of the types of programs offered to children.

⁸⁵ Jordan, *supra*, at 4.

Overall, local organizations across the country found that most stations comply with the *minimum* required hours with most stations airing only three to four hours of educational programming.⁸⁶ For example, the California chapter of the National Organization for Women stated that KRON, the NBC affiliate in San Francisco, makes, “ONLY the minimal commitment to children’s programming [with] 3 to 3.5 hours per week [and] no programs during the week.” Children Now noted that KPIX, the CBS affiliate in San Francisco, aired less than their self-reported three hours, as their children’s programming was preempted by sports.

Other stations across the country were also shown to have only minimum compliance. The Massachusetts-based Center for Technology & Society evaluated the CBS affiliate in Boston, WBZ, and noted they aired exactly three hours of children’s programming, a drop from 1997 when they aired 6 hours. A Detroit station, WXYZ (ABC) fared slightly better than Boston’s WBZ, with four hours of children’s programming.

While stations claim to be airing three hours a week of E/I programming, they are not consistently labeling shows as such. Many of these programs came up repeatedly in the evaluations including *Pepper Ann*, *Squigglevision*, *Popular Mechanics for Kids*, *Sabrina the Animated Series*, and *Mythic Warriors*. The Christian Communication Council of Detroit observed that some of these programs were identified “specifically to educate and inform children,” thus complying with the “E/I” label requirement, while others were simply identified “for children of all ages.” Children Now noticed similar inconsistency in the programs that they monitored. Three of the four stations reviewed

⁸⁶ The ABC affiliate in Houston, KTRK, aired 4.5 hours of educational programming. The Fox and ABC affiliates in San Francisco, aired 8 hours and 5.5 hours of children’s programming respectively.

had the E/I logo and only two listed the target age group for which the program was designed.

In addition to the inconsistency in identifying E/I programming, there was a perception that programs were not labeled in a way that is convenient for parents. Jim Jones of Child Serve noted the difficulty of planning ahead because most newspapers do not carry the E/I logo and he wrote, “you must be quick and on time to find the designation as the show begins because the ‘E/I’ logo appears only briefly on screen.”

Some organizations questioned the true educational value of programs that were labeled as E/I shows. In a review of WABC’s public files in New York City, the characterization of *101 Dalmatians* and *Sabrina* as E/I programming was deemed “questionable.” Similarly, Children Now noted that at the San Francisco ABC affiliate, KGO, “only two out of five programs [had] a clearly educational intent.” Other organizations remarked on the perceived leniency of labeling programs as educational or informational. For instance, NYU graduate students who visited the public files of the Fox affiliate in New York City said, “Of particular interest in the children’s/educational-programming files are these TV shows listed as ‘programming of interest to children’: *Beverly Hills 90210*, *Party of Five*, and *The Simpsons*.” Child Serve’s Jim Jones notes, “I fail to see how some of these shows can be deemed educational or informational. ... The majority of the shows teach children that it is vital to be cool, outsiders will always be treated poorly and although being yourself is very important, you better be good looking, good at sports or well-dressed because brains still work against you.” The Center for Technology & Society summed up these concerns by saying, “A clever writer could take almost any program on television and laud about its ability to, say, ‘improve social

skills.” They continued by saying their organization “would like to see clear evidence that professionals involved with children’s learning such as librarians, education faculty, and communications faculty are examining and shaping these few shows for their positive effect on children.”

G. Mandating Rules in a New Digital Era

Broadcasting is a business; it would be naive to ignore the fundamental role of the bottom line for broadcasters. Indeed, the history of the Children’s Television Act demonstrates that, when left to regulate themselves, broadcasters will not choose a public interest obligation to our nation’s children over advertising revenues. Even those broadcasters whose personal philosophies might dictate “doing the right thing,” are operating in an intensively competitive sphere. When left to self-regulation, acting on honorable intentions carries too great a business risk for the great majority of those in the industry.

As the Annenberg studies and People for Better TV’s local observations demonstrate, while broadcasters currently are generally complying with the Children’s Television Act, there is still room for considerable improvement. Stringent, quantifiable rules continue to be necessary to ensure that broadcasters meet children’s educational needs. As television moves from an analog to a digital system, Children Now urges the FCC not to rely once again on self-regulation and “good faith” from the broadcasting industry. Rather, fair regulations, defined and enforced by the FCC, can ensure that broadcasters meet their obligation to children in this new digital age.

IV. ANALYSES & RECOMMENDATIONS

Children Now proposes the following recommendations with the hope that public interest service in broadcasting will be continued and enhanced. For all these recommendations, Children Now also advises that the FCC consider careful phasing-in and implementation of standards and obligations over the period of time for transition and conversion from analog to digital.⁸⁷ Each recommendation should have built-in periodic reconsideration, particularly for technological advances, market responses, and any other factors that may impact the overall effectiveness of a recommendation.

A. Minimum Public Interest Obligations Should Be Specific

Along with People for Better TV, members of the Advisory Committee, the Media Access Project, and the Benton Foundation, Children Now believes that minimum public interest standards and obligations must be specific and detailed in order to give them meaning and effect.⁸⁸ Moreover, the conversion to digital is an unprecedented, complex process and necessarily requires specific guidelines during the transition period and afterwards. These requirements and guidelines should be communicated clearly to broadcasters during the license renewal process to ensure compliance and to ease any broadcasters' concerns regarding their status. Children Now supports the Advisory Committee's recommendation of five categories for minimum standards, in addition to the specific recommendations contained in these comments.⁸⁹ Compliance would be facilitated through quarterly reporting as detailed in Part IV.C, *infra*.

⁸⁷ Advisory Committee Report at §III.3 ("Any set of minimum standards should be drafted by the FCC in close conjunction with broadcasters and representatives of the public, and *phased in* over several years beginning with stations' transmission of digital signals." (emphasis added)).

⁸⁸ *Id.*; Notice at ¶21 n.68.

⁸⁹ Advisory Committee Report at §III.3.

B. Serving the Nation's Children

The following recommendations are particular to the FCC's request regarding how to serve nation's children. (*Notice* at ¶12).

1. The Children's Television Act in Digital

Children Now urges the FCC to maintain and enforce *all* of the current requirements of the Children's Television Act in the digital era.⁹⁰ In addition to complying with a proportional Three-Hour Rule described below, broadcasters still must be required to: 1) specify in writing the educational and informational objective of a program, as well as its target child audience; 2) air programs between the hours of 7:00am and 10:00pm; 3) ensure that broadcasts are regularly scheduled to assist parents in selecting educational programs for their children; 4) broadcast programs that are at least 30 minutes in length; and 5) identify "E/I" programs at the beginning of each program.⁹¹ Again, as evidenced from the history of the Children's Television Act, if the FCC does not explicitly state and enforce these rules, broadcasters will not voluntarily meet the educational and informational needs of children in the new digital era.

However, Children Now also recognizes that the digital television landscape is complex, creating difficulties in applying directly the current public interest obligations regarding children. As the Advisory Committee noted,

Analog broadcasters send one signal, usually 24 hours a day. Digital broadcasters may send one or multiple signals, at many different time periods throughout the day. Some of these signals may be programs; others may involve data transmissions or other broadband and telecommunications services. The vast new range of choices inherent in digital television technology makes it impossible to transfer summarily existing public interest obligations to digital television broadcasting. A key mandate for the Advisory

⁹⁰ See *Notice* at ¶4, citing *Fifth Report and Order*, *supra*, at 12809, 12810-12811, 12830 (1997) ("Likewise, in implementing section 336, the Commission reaffirmed that 'digital broadcasters remain public trustees with a responsibility to serve the public interest,' and state that 'existing public interest requirements continue to apply to all broadcast licensees.'"); *Fifth Report and Order*, *supra*, at 12830, ¶50.

⁹¹ Policies and Rules Concerning Children's Television Programming, 1996, *supra*, at §I (3-5).

Committee, therefore, has been to suggest how traditional principles of public-interest performance should be applied in the digital era.⁹²

Thus, Children Now recommends that the FCC apply the current Children's Television Act and corresponding FCC rules to digital broadcasters in the following manner:

**a. The Digital Three-Hour Rule for E/I Programming:
Proportional Hours Requirement**

As the Advisory Committee accurately notes, “. . . if broadcasters decide to use their digital real estate for multiple commercial channels (whether or not they are high definition), each generating its own revenue stream, then it is appropriate to consider whether the public interest requires *a different formula*.”⁹³ With respect to multicasting, this argument for reconsideration of particular public interest formulas is strengthened by the fact that although the FCC assesses fees from digital broadcasters who get paid for ancillary or supplementary services, the multicasting feature is free of charge.⁹⁴

First, each digital broadcaster should provide an amount of weekly E/I programming that is *proportional* to the three hours per week requirement currently administered under the Children's Television Act of 1990. This rule transfers the current Three-Hour Rule to digital in a fair and commensurable way, accounting for the increased amount of programming possible through multicasting. Unlike a flat hour rule, it does not penalize broadcasters who choose to program fewer hours than their colleagues. Thus, the obligation of digital broadcasters *is effectively the same as it was during the analog era*.

⁹² Advisory Committee Report at §III.

⁹³ Advisory Committee Report at §III.5 (emphasis added).

⁹⁴ *Id.*

Children Now recommends an application of the traditional Three-Hour Rule that becomes *the Three-Percent Rule*. First, we establish a baseline proportion of three hours per one-hundred and five (105) programmable broadcast hours per week – premised on the current 15 hours per day (between 7 a.m. and 10 p.m.) window for E/I programming for seven days per week. This provides a simple and realistic percentage to apply to expanded hours in the digital era – 3/105 or approximately 3% for administrative simplicity. Once broadcasters have calculated their total digital broadcast hours per week, they should multiple that total by 3% and round up to the closest five-tenths (i.e., 0.5) since half-hour segments are the smallest unit for programming. This will yield a preliminary E/I hours requirement, subject to adjustment by the proportional DVEQ process detailed in Part IV.B(1)(b), *infra*. Children Now has provided a sample case study worksheet in Appendix A.

Broadcasters are currently required to file quarterly reports that detail meeting their E/I requirements, and this calculation and evaluation process will follow the same schedule in the digital era. The amounts and figures required for the Digital Three-Hour Rule will be reported in the quarterly filings, and will determine the broadcaster's E/I requirements for the following quarter. The sample worksheet in Appendix A functions similarly to the disclosure worksheet proposed by the Advisory Committee – it is a simple and minimally burdensome method to assure the public and broadcasters that public interest obligations are being fulfilled.

**b. The Digital DVEQ Rule for E/I Programming:
Proportional DVEQ Requirement**

Second, the rules should also protect against segregation of E/I programming into the lowest DVEQ as determined by A/V quality and multiplexing (e.g., datacasting and

interactive participation). E/I programming must partake of the technological advances in the same proportion that a broadcaster chooses to use them overall. Children Now recommends that with each quarterly report, broadcasters must file a calculation of how their programming hours, *apart from E/I programming*, is distributed with respect to DVEQ (e.g., How many hours are broadcast in HDTV with streaming datacast? How many hours are broadcast in SDTV as part of a four-channel multicast with no multiplexing? How many hours are broadcast in each of the 18 possible formats?). Once this overall DVEQ distribution is computed, broadcasters must apportion their required E/I programming hours accordingly. All calculations must round up to the nearest five-tenths, since half-hour segments will be the smallest unit for programming.

Importantly, this recommendation preserves the broadcasters' flexibility and power to determine their optimal mix of services and bandwidth management. The FCC determined that this flexibility was prudent and declined to mandate a standard amount of services that would rest on "a prior assumptions as to what services viewers would prefer."⁹⁵ However, this recommendation also protects E/I programming against segregation and also promotes use of advanced technologies to enhance the educational experiences of television. Children's E/I programming should participate in the benefits of multiplexing and high-definition A/V as much as broadcasters choose to use these services. Children Now has provided a sample case study worksheet in Appendix A.

c. Pay or Play Model

If the FCC wants to maximize broadcasters' flexibility, they could consider a "Pay or Play" model as a way in which broadcasters could meet their obligation to the digital Three-Hour Rule. Under this model public interest obligations are quantified, and

broadcasters have the choice of meeting these obligations through their own programming or by paying a share of revenues to bypass those obligations.⁹⁶

Should the FCC consider such a model, Children Now urges them to consider it as a means of expanding our recommendation for a digital Three-Hour Rule. Again, under Children Now's proposal for a digital Three-Hour Rule, broadcasters' obligation to E/I programming would increase proportionally to the number of hours they are multicasting. A "Pay or Play" model would simply increase broadcasters' flexibility in meeting this public interest obligation.

Children Now encourages the FCC to consider a "Pay or Play" approach that is analogous to the trading of "pollution rights" under the Clean Air Act Amendment of 1990. Essentially, the Act successfully reduced sulfur dioxide emissions by giving companies allowances that they could buy, save, or use from other companies.⁹⁷ With its public interest obligation already quantified, the Children's Television Act could serve as an appropriate archetype for the "Pay or Play" model.⁹⁸

The FCC could maximize broadcasters' flexibility, by giving them the option of airing the required hours of E/I programming on their own channels, paying other networks or channels to air these hours for them, or a combination thereof.

As it stands, the 1996 Children's Television Act enables broadcasters to serve children by producing or supporting shows that are then broadcast by another station.⁹⁹

⁹⁵ *Fifth Report and Order*, *supra*, at 12826, ¶42.

⁹⁶ Advisory Committee Report at §III.10, *New Approaches to Public Interest Obligations in the New Television Environment*.

⁹⁷ Campbell, Angela, *Toward A New Approach to Public Interest Regulation of Digital Broadcasting* (visited March 7, 2000) < <http://www.aspeninst.org/c&s/dbpi11.asj> > at § *Proposal 4: The Pay or Play Option* [hereinafter Campbell].

⁹⁸ *Id.*

⁹⁹ *Id.* ("The Children's Television Act in fact has adopted this approach in permitting broadcast licensees to meet part of their obligation to serve the educational and information needs of children by demonstrating

To date, broadcasters have not taken advantage of this opportunity but the “Pay or Play” model could facilitate their participation. One of the benefits of this model is that it could promote partnerships between commercial broadcasters or commercial and non-commercial broadcasters in a given market.¹⁰⁰ The model also could provide much needed financial support to public broadcasters, who have a strong interest in and commitment to E/I programming.

There are several drawbacks to the “Pay or Play” model that the FCC should take into account if they are to mandate such a policy. Critics contend that under such a model, broadcasters will opt for the least expensive alternative, which will most likely be to air programming on their own stations, which could be of extremely poor quality.¹⁰¹ Critics also argue that this model will relegate public interest programming to public broadcasting, which would result in less exposure for America’s children.¹⁰² Another concern is that commercial broadcasters may not pay public broadcasters enough to be able ameliorate the current public broadcaster funding shortage, which, in the end, could reduce the quality of E/I programming.¹⁰³

Such concerns could be mitigated if the FCC mandates stringent guidelines to a “Pay or Play” model for the Children’s Television Act. The FCC should develop a formula to quantify the economic value of an hour of E/I programming.¹⁰⁴ Such a

‘special efforts to produce or support [children’s educational] programming broadcast in another station in the licensee’s marketplace.’”).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Advisory Committee Report at §III.10, *New Approaches to Public Interest Obligations in the New Television Environment*.

¹⁰³ Campbell, *supra*, at § *Proposal 4: The Pay or Play Option*.

¹⁰⁴ According to proponents of this model, a payout of all public service requirements (not just E/I programming) would be about two percent of broadcasters gross revenues, currently valued at \$26 billion. See Neil Hickey, *Television News Is Moving From the Drab Old Neighborhood to Beachfront Property on the Cyber Sea*, *Columbia Journalism Review* 47 (September/October 1999); Henry Geller,

formula should take into account Children Now's proposed DVEQ (digital viewer experience quality) as a means of quantifying the range of experiences that are now possible with DTV. Thus, the price tag for an hour of E/I programming would vary depending on the level of the DVEQ of the program. As previously stated, broadcasters should apportion their required E/I programming hours according to their overall DVEQ distribution. Such apportionment should mollify some of the concerns about E/I programming quality in a "Pay or Play" model.

The "Pay or Play" model will require more data gathering and monitored enforcement by the FCC to ensure broadcasters' compliance. When broadcasters file their quarterly reports on their E/I obligation, they should be required to report whether they aired these hours themselves or paid another station to fulfill their responsibility. They must disclose the name of the station that aired the hours for them, and the amount that they paid. Again, the payment must be based on the formula previously determined by the FCC, which should include the DVEQ as a variable. The FCC must be prepared to enforce these rules, and to apply fines when necessary to ensure compliance.

d. Diversity of Programming

In order to meet the educational needs of the vast child audience, it is essential that broadcasters provide a range of E/I programming. Children Now urges the FCC to be cognizant of the importance of diversity in children's educational programming, particularly in regards to: 1) the age of the target audience; and 2) the production locale.

i. Target Audience

Age-related differences in children's cognitive abilities influence their ability to comprehend and decipher media messages.¹⁰⁵ Preschool-age and young children often cannot understand media content because it is too conceptual or complex, causing their attention to wane.¹⁰⁶ In order to attract children's attention, broadcasters must create programming that is targeted to different age groups, taking into account the needs and abilities of children of these specific groups.¹⁰⁷ According to Dr. Kelly Schmidt, author of *The Three-Hour Rule: Is It Living Up To Expectations?*, minimal E/I programming exists for children under the age of five. Although this trend may represent a reluctance among broadcasters to label programming appropriate for that age group, it also could be that some advertisers feel that preschoolers are not a legitimate market.¹⁰⁸

Our youngest children can benefit tremendously from E/I programming that is developmentally appropriate; it cannot only educate and entertain, but it can prepare children for school, and has even been shown to improve test scores. According to a 1995 University of Kansas study, preschoolers in low-income areas who watched educational children's programming were not only better prepared for school, but actually performed better on verbal and math tests as late as age 7 than would have been expected otherwise. The study also found that preschoolers who only watched adult programs and

¹⁰⁵ Dale Kunkel & Brian Wilcox, *Children and Media Policy*, in *Handbook on Children and Media* (Dorothy and Jerome Singer, eds., forthcoming 2000).

¹⁰⁶ Kunkel & Wilcox, *supra*, at § *Adequacy of Television's Service to Children*.

¹⁰⁷ *Id.*

¹⁰⁸ Schmidt, *supra*, at 11.

entertainment-oriented cartoons did worse on those later tests than would have been anticipated.¹⁰⁹

Under the 1996 Children's Television Act, broadcasters are required to disclose the target age group that their E/I programs serve. Children Now urges the FCC to minimally require the same disclosure of digital broadcasters and to consider the importance of serving all children in the new digital era.

ii. Production Locale

Locally-produced programs provide an important niche for children, as they can educate and inform them about their community, as well as offer ideas of local activities in which to participate. Children Now urges the FCC to consider the benefits that locally-produced shows bring to the children in the communities they serve. Currently, there is a dearth of such types of E/I programming. According to the Annenberg Public Policy Center, only 65 of about 1200 E/I shows were locally produced in 1999; commercial broadcasters generally receive all of their E/I programming from the network with which they are affiliated.¹¹⁰

Most respondents of the Annenberg poll, *The Three-Hour Rule: The Insiders' View*, feel that there is a lack of E/I programs being produced by local stations, and many complained that there is a diminishing cadre of players in the production community. The FCC may want to consider ways of encouraging local broadcasters to produce some of their own E/I programming, as a means of diversifying E/I programming available to children in different communities.

¹⁰⁹ Lawrie Mifflin, *Study Finds Educational TV Lends Preschoolers Even Greater Advantages*, N.Y. Times, May 31, 1995, at B8.

¹¹⁰ Schmidt, *supra*, at 25.

e. Ratings and the V-Chip

In 1997, after great debate between children's advocates and broadcasters, a new voluntary television ratings system was implemented to give parents adequate information about the programs that their children watch. Parents now have a ratings system that includes content-based ratings, instead of age-based ratings only. The new system consists of content descriptors (V, S, L, D) which inform parents about shows that contain high levels of violence, sexual situations, coarse language, and suggestive dialogue, respectively. These ratings are used to rate most types of television shows including dramas, comedies, soap operas, movies, and talk shows. The new system also enhances the ratings for children's programs by adding an indicator for children's shows that include violent material (FV for fantasy violence).

V-Chip technology, when used in conjunction with the TV ratings system, enables parents to block programming they consider inappropriate for their children. During the first fifteen minutes of a program, broadcasters send an electronic identification signal that indicates a program's rating; the V-Chip then receives and processes this signal.¹¹¹ If parents have blocked shows with specific ratings, the V-Chip prevents such shows from appearing on their television screen.

As television moves from an analog to a digital system, Children Now urges the FCC to ensure that the V-Chip and ratings system are available to parents. According to a 1999 poll conducted by the Henry J. Kaiser Family Foundation, more than three fourths of parents (77%) said that if they had a V-Chip at home, they would use it to block out

¹¹¹ Center for Media Education and the Henry J. Kaiser Family Foundation, *What Parents Should Know About the V-Chip* (visited 3/23/00) < <http://www.vchippeducation.org/pages/usingr.html>. >

programming they deemed inappropriate for their children.¹¹² Similarly, six out of ten parents said they are concerned a “great deal” that their children are being exposed to too much sex (66%) or violence (60%).¹¹³ With broadcasters’ new multicasting capability, children will have access to many more channels and programs, potentially exposing them to more violence, sex, crude language and suggestive dialogue. Thus, the ratings and accompanying V-Chip technology should be available so that parents can monitor the shows their children watch in the digital age.

Children Now urges the FCC to consider how the advanced capabilities of digital broadcasting can help to provide ratings information to parents. Currently, the ratings symbol appears in the top upper left-hand corner of the screen during the first fifteen seconds of a television program. In order to determine the rating of a show, parents must either watch the beginning of the program, or check their local TV guide. More than two thirds of parents (67%) report that even when they looked for the rating on their television screen, they frequently missed it.¹¹⁴ Similarly, eight out of ten parents who use the ratings said that the ratings symbol should appear on the screen more often.¹¹⁵ With digital television’s capability to transmit data simultaneous with programming, broadcasters could make ratings (as well as E/I information) available throughout the length of a program. Broadcasters could also use datacasting to provide parents with information as to why a show received a particular rating or is categorized as E/I programming. Using the interactive capabilities that potentially will be available, with a

¹¹² *Campaign To Educate Parents About the V-Chip Announced*, The Henry J. Kaiser Family Foundation Press Release, May 10, 1999 available at <www.kff.org/content/archive/1477/vchip.html>.

¹¹³ *Id.*

¹¹⁴ The Henry J. Kaiser Family Foundation, *Parents, Children and the Television Ratings System*, (May 1988), p. 5.

¹¹⁵ The Henry J. Kaiser Family Foundation, *Parents, Children, and the Television Ratings System*, *supra*, at 8.

click of the mouse, parents could access pertinent program information at any point during the broadcast.

Children Now also asks that the FCC consider using digital television's increased capabilities to augment the current ratings system to provide even more information to parents. The FCC has indicated that it would take "an open, flexible approach to the development of industry standards and regulations that would accommodate the possible development of multiple ratings systems."¹¹⁶

The FCC should consider requiring broadcasters to provide additional content ratings information from independent sources. Eight out of ten voters favor an independent ratings system (84%), and think that developing such a system is important (87%).¹¹⁷ Digital technology should allow for the provision of multiple ratings systems. Such systems could be made available through the V-Chip itself (by using the additional spectrum available) or by providing links to the Internet where such information could be accessed. More research needs to be conducted as to how the V-Chip and TV ratings system can work most effectively for parents in the digital era. Children Now urges the FCC to issue an NOI to further explore this issue and to determine how to maximize content and ratings information for parents.

f. Commercials

As television moves from an analog to a digital system, Children Now urges the FCC to maintain the current regulations about advertising and children's television programming, specifically in regards to time limits and program-commercial separation.

¹¹⁶ 13 FCC Rcd 11248, 11251 (1998).

i. Time Limits

The Children's Television Act of 1990 limited advertising during children's programs to 12 minutes per hour on weekdays, and 10.5 minutes per hour on weekends. Broadcasters have overwhelmingly adhered to this rule, with a 1993 study showing 98% of stations in compliance.¹¹⁸ Children Now urges the FCC to uphold this rule in the digital era, and maintain these limits on advertising during children's programming.

ii. Program-Commercial Separation

Research indicates that by the age of five, most children are able to identify commercials aired during television programs. It is not until age seven or eight, however, that they truly understand the persuasive intent of advertising. In other words, children under seven see advertisements as part of television entertainment, while children seven and older are "coming to terms with the fact that advertisers are 'trying to get people to buy something.'" Thus, Children Now urges the FCC to uphold three current rules which help children to distinguish between commercials and the content of the show:

- 1) *Program length commercials*: Broadcasters cannot "air a program associated with a product in which commercials for that product are aired."¹¹⁹
- 2) *Host-selling*: Program characters or show hosts are not allowed to sell products in commercials during or adjacent to their shows.¹²⁰

¹¹⁷ *FCC Urged to Hold Public Hearings As Group Releases Poll Showing Support for Independent Ratings System for Violence, Sexual Content and Inappropriate Language*, People for Better TV Press Release, July 2, 1999, available at <www.bettertv.org/release0702.html>.

¹¹⁸ Stern, *supra*, at 65.

¹¹⁹ Kunkel & Wilcox, *supra*, at § *Fairness of Television Advertising To Children*.

¹²⁰ *Id.*

- 3) *Bumpers*: Required during children's programs, bumpers are five seconds long and separate programs and commercials. They include messages like, "And now a word from our sponsor."¹²¹

2. Additional Opportunities and Obligations

In addition to applying traditional principles of public-interest performance with appropriate modifications, the Advisory Committee also discussed appropriate additional public interest obligations "given the enhanced opportunities and advantages that broadcasters may receive through digital broadcasting."¹²² Children Now agrees with the principle that "there should be some additional benefit to the public if its grant to broadcasters of the valuable digital television spectrum results in enhanced economic benefits for broadcasters."¹²³ Further, as detailed above at Part II, *supra*, the technological advances of DTV offer exponentially more opportunities to meet children's educational and informational needs. The FCC should ensure that those opportunities for America's children are not overlooked in this pivotal transition.

Comments from the Center for Media Education (hereinafter, "CME") present a set of options that broadcasters may use to satisfy their additional public interest obligations to children. The Advisory Committee laid out a similar model of alternatives in its discussion of multiplexing capabilities and the need for additional benefits to the public.¹²⁴ The CME model is composed of two levels of options, offering broadcasters maximum flexibility and control.¹²⁵ None of the options are mutually exclusive, giving

¹²¹ *Id.*

¹²² Advisory Committee Report at §III; *Fifth Report and Order, supra*, at 12830, ¶50 ("Broadcasters and the public are also on notice that the Commission may adopt new public interest rules for digital television.").

¹²³ Advisory Committee Report at §III.5.

¹²⁴ *Id.*

¹²⁵ See Comments of Center for Media Education at §I (filed March 27, 2000 in MM Docket No. 99-360).

broadcasters the power to combine options and to optimize their bandwidth management. CME suggests that broadcasters may choose to fulfill their obligations by: providing more educational and informational (E/I) programming; paying a fee to a fund that support noncommercial programming; or providing broadband and datacasting services to local schools and libraries. For each of these options, broadcasters have a variety of methods to consider. For example, providing more E/I programming may be accomplished by dedicating an entire channel to E/I programming, dedicating one hour of E/I programming for every 20 hours of multicasting, setting aside a channel for children's programming and dedicating a substantial amount to E/I shows, or setting aside a channel for noncommercial public interest programming and dedicating a substantial amount to E/I shows.¹²⁶

Children Now recommends that the FCC consider additional obligations for digital broadcasters regarding children and children's programming. Further, Children Now recommends that the FCC consider the flexible and effective model proposed by CME as part of its rule-making process.

3. Children's Privacy & Protection on DTV

Convergence through the DTV platform will necessarily bring the current Internet policy issues of invasions of privacy and excessive advertising to the television arena. As detailed above at Parts I.A and II.C, *supra*, it is possible that these policy concerns will quickly affect a much larger population of children if the Digital Divide is narrowed by DTV. Correspondingly, Children Now recommends that the FCC consider additional rule-making to protect children from invasions of privacy and excessive and abusive advertising in the digital era. The Center for Media Education has conducted pioneering

¹²⁶ *Id.*

research and advocacy in these new media policy arenas. Comments submitted by CME detail recommendations for additional safeguards, including: the application of the Children's Online Privacy Protection Act of 1998 (COPPA) and corresponding Federal Trade Commission rules to DTV broadcasters collecting information from children; the application of existing advertising policies and regulations on all programs that are directed toward children twelve (12) and under regardless of what program stream they are on; and a prohibition of all links to advertising or sales during children's programming.¹²⁷

Children Now recommends that the FCC consider the expertise of CME and their proposals for additional privacy and advertising safeguards, in its rule-making process.

C. Disclosure Requirements

Children Now agrees with the principle that effective self-regulation requires broadcasters to disclose adequately their information regarding what they are doing. The current FCC disclosure rules require commercial TV broadcasters to include in their public files separate quarterly reports regarding their non-entertainment programming responsive to community needs and their children's programming.¹²⁸ These data include items such as citizen agreements, records concerning public office candidate broadcasts, employment reports, correspondence with the public, issues/programming lists, records concerning commercial limits in children's programming, and children's programming reports.¹²⁹ Toward the goal of significant and effective disclosures in the digital era, Children Now makes the following recommendations:

¹²⁷ *Id.* at §II.

¹²⁸ 47 C.F.R. §§ 73.3526, 73.3527.

¹²⁹ *Notice* at ¶16 (citing 47 C.F.R. § 73.3526(e)); *see also* In the Matter of Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio

First, Children Now recommends that the current information reporting requirements established for implementing the Children's Television Act continue to apply to all digital broadcasting, including ancillary and supplementary services.

Second, Children Now joins the recommendations of the Advisory Committee and People for Better TV regarding enhanced disclosure requirements for digital broadcasters.¹³⁰ Enhanced reporting is necessary due to the complex and exponentially richer landscape of DTV compared to analog broadcasting. Broadcasters should report on their "public interest programming and activities on a quarterly basis, using standardized check-off forms that reduce administrative burdens and can be easily understood by the public."¹³¹ The enhanced set of data should "include but not be limited to contributions to political discourse, public service announcements, children's and educational programming, local programming, programming that meets the needs of underserved communities, and community-specific activities."¹³²

Third, Children Now recommends that the FCC affirmatively revisit its repeal of previous ascertainment requirements, and explore whether any of the revoked requirements have particular relevance and application to DTV.¹³³ This exploration should consider whether a specific requirement is applicable today as well as whether it will be applicable as the transition to digital television proceeds.

Finally, Children Now joins the Advisory Committee in its recommendation that digital broadcasters take affirmative steps to distribute their public interest obligation data

Stations, MM Docket No. 97-138, *Report and Order*, 13 FCC Rcd 15691 (1998) (*Public File Report and Order*).

¹³⁰ Advisory Committee Report at §III.1; Letter from People for Better TV to William E. Kennard, Chairman, FCC, Nov. 16, 1999; *Notice* at ¶15.

¹³¹ Advisory Committee Report at §§III.1, Appendix A.

¹³² *Id.* at § III.1.

¹³³ See *Notice* at ¶16 n.63.

more widely through channels such as local newspapers, local program guides, and the Internet.¹³⁴ Members of the People for Better TV coalition took considerable effort to obtain public information from broadcasters during the early part of 2000 in order to comment in this proceeding; any measures that facilitate this process would better serve the public and fulfill the true intent of the rule.¹³⁵

D. Diversity

Diversity of programming has long been a cornerstone of the broadcasting industry, from the *Great Lakes Broadcasting Co.* rules in 1929 to the Blue Book policy statement in 1946 to the 1960 Programming Policy Statement, and up to recent national discussions regarding prime-time diversity highlighted by the National Association for the Advancement of Colored People in 1999.¹³⁶ Both the FCC and the Advisory Committee have addressed the importance of diversity in broadcasting with respect to viewpoint, ownership, and employment.¹³⁷ As the FCC notes, many of the Advisory Committee's "recommendations bear on its goal of diversity in broadcasting," with proposals ranging from the capacity of multicasting to better serve underrepresented minorities in content and entrepreneurship to the use of recovered analog spectrum for noncommercial programming directed at underserved segments of the community to "hiring and promotion policies that result in significant representation of minorities and women in the decision-making positions in the broadcast industry."¹³⁸

¹³⁴ Advisory Committee Report at §III.1.

¹³⁵ See, e.g., Part III.F, *supra*; see also comments, observations, and letters filed by People for Better TV members for this FCC proceeding (MM Docket No. 99-360).

¹³⁶ See Advisory Committee Report at §II, *Encouraging Diversity of Programming*; *Great Lakes Broad. Co.*, 3 FRC Ann. Rep. 32 (1929); *Public Service Responsibility of Licensees* (the *Blue Book*) (1946); *En banc Programming Inquiry*, 44 FCC 2303 (1960); Greg Braxton, *NAACP Will Fight Network TV Lineups*, L.A. Times, July 12, 1999, at A1.

¹³⁷ Notice at ¶¶ 29-33.

¹³⁸ Notice at ¶32 (citing Advisory Committee Report at §III.9).

A consistent theme in the Advisory Committee's final report is that serving diverse interests and promoting diversity in broadcasting is both "good business and good public policy."¹³⁹ The Advisory Committee addresses growing commitments to equal employment opportunities in the digital era, expanded possibilities for diversity of programming due to multicasting and multiplexing (e.g., "narrowcasts"), designated noncommercial educational channels and datacasting to underprivileged and minority communities, and enhanced audio capabilities for increased use of foreign language tracks.¹⁴⁰ Children Now recommends that the FCC consider all of the Advisory Committee's proposals and arguments for promoting diversity in broadcasting in its rule-making process, and supports the FCC in its undertaking of initiatives designed to diversify broadcast ownership and employment.

Children Now also recommends that the FCC consider the effects of DTV convergence on the Digital Divide and diversity, as discussed at Part II.C, *supra*. While the actual closure of the divide will depend primarily on the price points of receiver hardware, the politics of convergence may force the public to purchase and thereby bring a greater population on-line.

Finally, Children Now and its Children and the Media Program have been engaged in issues of diversity and identity formation for several years, and we submit the following research reports to be placed in the record of this proceeding:¹⁴¹

- i. *Fall Colors: How Diverse is the 1999-2000 TV Season's Prime-Time Lineup?* (2000) [Appendix B];

¹³⁹ Advisory Committee Report at §III.9.

¹⁴⁰ See Advisory Committee Report at §§II, *Encouraging Diversity of Programming*, II, *Equal Employment Opportunity*, III.4(b), *The Creation of New Noncommercial, Educational Channels*, III.9, *Diversity in Broadcasting*.

¹⁴¹ All reports are available on-line at <<http://www.childrenandmedia.org>>.

- ii. *Boys to Men: Media Messages About Masculinity (Entertainment Media)* (1999) [Appendix C];
- iii. *Boys to Men: Media Messages About Masculinity (Sports Media)* (1999) [Appendix D];
- iv. *The News Media's Picture of Children: A Five-Year Update and A Focus on Diversity* (1999) [Appendix E];
- v. *A Different World: Native American Children's Perceptions of Race and Class in the Media* (1999) [Appendix F];
- vi. *A Different World: Media Images of Race and Class (conference report)* (1998) [Appendix G];
- vii. *A Different World: Children's Perceptions of Race and Class in the Media* (1998) [Appendix H];
- viii. *Reflections of Girls in the Media (Fourth Annual Children & the Media Conference)* (1997) [Appendix I]; and
- ix. *Reflections of Girls in the Media: A Two-Part Study on Gender and Media – Summary of Key Findings* (1997) [Appendix J].

This body of research presents a comprehensive examination of how America's young people perceive issues of diversity such as race, class, and gender in the broadcast media that they consume. Children speak about the lack of diversity and the unfair representation of minorities in the media. Further, many young people express their desire for more balanced, realistic, and real programming. Concurrently, these reports also provide content analyses of the most popular media among young people, with respect to these diversity issues. While some pictures have improved, there is still much room for greater positive diversity in programming.

Children Now submits this body of research into the record and recommends that the FCC take note of the findings. The voices of America's children should be included in this rule-making process.

APPENDIX A

Sample Case Study Worksheet for the Children's Television Act in Digital

♦ **How to Calculate the Digital Three-Hour Rule Requirement (3% Rule)**

- 1) **Sample Digital Broadcaster:** WXYZ in Los Angeles, CA
- 2) **Total Digital Broadcast Hours Per Week (multicasting):** 400 hours
- 3) **Multiply Total Hours by 3%:** 12 hours
- 4) **Rounding Up to the Nearest ½ Hour:** 12 hours
- 5) **Preliminary E/I Hours Requirement:** 12 hours

♦ **How to Calculate the Digital DVEQ Rule Requirement**

- 1) **Sample Digital Broadcaster:** WXYZ in Los Angeles, CA
- 2) **Total Digital Broadcast Hours Per Week (multicasting):** 400 hours
- 3) **Preliminary E/I Hours Requirement (from above):** 12 hours
- 4) **Total Non-E/I Hours (400-12):** 388 hours
- 5) **DVEQ Distribution of Total Non-E/I Hours):**

DVEQ Categories	% of Total Non-E/I Hours
HDTV Single Channel With Datacasting & Interactivity	25% (97 hours)
HDTV Dual Channels With Datacasting	25% (97 hours)
SDTV Four-Channels	25% (97 hours)
SDTV Six-Channels	25% (97 hours)

6) Apportioning E/I Hours Requirement According to DVEQ Distribution of Non-E/I Hours:

DVEQ Categories	(% of Total Non-E/I Hours) x (Preliminary E/I Hours Requirement)	TOTAL E/I REQUIREMENT Round Up to Nearest ½ Hour
HDTV Single Channel With Datacasting & Interactivity	25% x 12 hours = 3 hours	3 hours
HDTV Dual Channels With Datacasting	25% x 12 hours = 3 hours	3 hours
SDTV Four-Channels	25% x 12 hours = 3 hours	3 hours
SDTV Six-Channels	25% x 12 hours = 3 hours	3 hours

7) Final Total E/I Hours Requirement: 12 hours distributed among 4 DVEQ categories

APPENDIX B

Fall Colors: How Diverse is the 1999-2000 TV Season's Prime-Time Lineup? (2000)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX C

Boys to Men: Messages About Masculinity (Entertainment Media) (1999)

Available for download at <http://www.childrenandmedia.org>.

Hard copy of report attached to Children Now's filing by paper.

APPENDIX D

Boys to Men: Messages About Masculinity (Sports Media) (1999)

Available for download at <http://www.childrenandmedia.org>.

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APPENDIX E

The News Media's Picture of Children: A Five-Year Update and A Focus on Diversity (1999)

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APPENDIX F

A Different World: Native American Children's Perceptions of Race and Class in the Media (1999)

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APPENDIX G

A Different World: Media Images of Race and Class (conference report) (1998)

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APPENDIX H

A Different World: Children's Perceptions of Race and Class in the Media (1998)

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APPENDIX I

*Reflections of Girls in the Media
(Fourth Annual Children & the Media Conference) (1997)*

Available for download at <http://www.childrenandmedia.org>.

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APPENDIX J

*Reflections of Girls in the Media: A Two-Part Study on Gender and Media –
Summary of Key Findings (1997)*

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